

IN THE HIGH COURT OF JUDICATURE AT MADRAS
Dated: 08.09.2020
CORAM:

THE HONOURABLE DR. JUSTICE G.JAYACHANDRAN

C.M.A.No.1647 of 2015
and
M.P.No.1 of 2015

The Managing Director,
Tamil Nadu State Transport
Corporation (Salem-II) Limited,
Regional office,
Dharmapuri. ... Appellant/2nd Respondent

/versus/

1.Muniyamma
2.K.Prabhakaran ... Respondents/ Petitioner &1st Respondent

Prayer: Civil Miscellaneous Appeal has been filed under Section 173 of the Motor Vehicles Act, against the judgment and decree dated 17.01.2013 made in M.C.O.P.No.1538 of 2010 on the file of the Motor Accident Claims Tribunal, Principal District Judge, Krishnagiri.

For Appellant : Mr.D.Venkatachalam
For Respondents: No appearance

J U D G M E N T

(This case has been heard through Video Conference)

This appeal is filed by the Transport Corporation being aggrieved by the quantum of compensation awarded by the Tribunal to the claimant.

2. The case of the respondent/claimant is that her son aged about 6 years old while walking along with his parents to witness the temple festival, a bus of the appellant/Transport Corporation bearing registration No.TN 29 N 1658 dashed against the minor boy Munibabu and the wheels of the bus ran over the body of the minor causing instant death. The claimant has filed the FIR and post-mortem report to substantiate that the accident was caused due to rash and negligent driving of the bus driver.

3. Taking note of the age of the boy, the Tribunal awarded a sum of Rs.3,45,000/- as compensation. The present appeal is filed questioning the quantum on the ground that the negligence has been wrongly presumed against the bus driver. Due to the

carelessness of the elders, the boy suddenly crossed the road from right to left side. The Tribunal has failed to take note of this crucial fact. Further, it has awarded Rs.1,00,000/- under the head of loss of future earning without basis, so the same is questioned by the appellant.

4. Heard the learned counsel for the appellant.

5. The accident happened on 07.08.2009, the deceased boy was 6 years old. Though the FIR is not a conclusive proof, the Transport Corporation has not placed any other contra evidence to disbelieve the content of the First Information Report. Evidence of DW.1 is opposed to the contention found in the counter filed by the appellant/respondent. Hence the Tribunal has fixed the negligence on the part of the 1st respondent and awarded a sum of Rs.3,45,000/-.

6. Taking into consideration of the subsequent march of law in this field, this Court finds no substance to interfere the award passed by the Tribunal. Hence the Civil Miscellaneous Appeal is dismissed. Consequently, connected miscellaneous petition is also closed. No costs.

Sd/-

Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

rpl
To

The Motor Accident Claims Tribunal,
Principal District Judge,
Krishnagiri.

Copy to:

The Section Officer, VR Section, High Court, Madras.

+1cc to Mr.D.Venkatachalam, Advocate SR.No. 29479

C.M.A.No.1647 of 2015
and M.P.No.1 of 2015

A.SK(20.04.2021)